

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BARBARA LYNN FARMER  
TX-1337337-L

§  
§  
§  
§  
§  
§  
§

DOCKET NO.  
329-110398.ALC

COMPLAINT NO. 10-336

### FINAL ORDER

On this 18th day of February, 2011, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the appraisal license of BARBARA LYNN FARMER is hereby **REVOKED**, effective twenty days after the date BARBARA LYNN FARMER is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and signed this 18<sup>th</sup> day of February, 2011.

  
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Luis De La Garza, Chairperson  
Texas Appraiser Licensing and Certification Board

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

December 2, 2010

Douglas E. Oldmixon  
Administrator  
Texas Appraiser Licensing and Certification Board  
1101 Camino La Costa  
Austin, Texas 78752

**INTER-AGENCY**

**RE: Docket No. 329-11-0398.ALC; Texas Appraiser Licensing and Certification Board v. Barbara Lynn Farmer**

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "H. D. Card", written over a horizontal line.

Henry D. Card  
Administrative Law Judge

HDC/lh  
Enclosure

xc: Barbara Lynne Farmer, 18711 S. Colony Shore, Cypress, TX 77433 - **VIA REGULAR MAIL**  
Troy Beaulieu, 1101 Camino La Costa, Austin, TX 78752 -- (with 1 hearing CD & Certified Evidentiary Record) - **VIA-INTER-AGENCY**

RECEIVED

DEC 02 2010

Texas Real Estate Commission

300 West 15<sup>th</sup> Street Suite 502 Austin, Texas 78701 / P.O. Box 13025 Austin, Texas 78711-3025  
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)  
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**DOCKET NO. 329-11-0398.ALC**

<b>TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>BARBARA LYNN FARMER,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB) seeks revocation of the real estate appraiser license held by Respondent, Barbara Lynn Farmer. Staff alleges that Respondent violated the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN. ch. 1103, and TALCB's rules by failing to respond to Staff's inquiry and request for documents related to a complaint. Respondent did not respond to Staff's notice of hearing and did not appear at the hearing. The Administrative Law Judge (ALJ) concludes this matter should proceed on a default basis, that the allegations in the notice of hearing are deemed admitted, that Respondent violated TALCB's rules, and that Respondent's license should be revoked.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

TALCB has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 1103.451-1103.552. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. OCC. CODE ANN. §§ 1103.508 and 1103.518 and TEX. GOV'T CODE ANN. ch. 2003.

On September 24, 2010, Staff sent notice of the hearing in this matter to Respondent's most recent address as shown in TALCB's records, in accordance with 22 TEX. ADMIN. CODE (TAC) § 157.9. The notice was sent more than ten days before the hearing, as required by TEX. GOV'T

CODE ANN. §2001.051. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted, as required by TEX. GOV'T CODE ANN. §2001.052. The envelope containing the notice of hearing was returned to TALCB unclaimed.

The hearing was convened as scheduled before ALJ Henry D. Card on November 3, 2010, at SOAH's offices in Austin, Texas. Staff appeared at the hearing. Respondent did not. Staff offered evidence in the record to show jurisdiction, notice, and TALCB authorization and precedent for the proposed sanction. Staff moved to proceed on a default basis. That motion was taken under advisement and is granted by this Proposal for Decision. The hearing was adjourned and the record closed the same day, November 3, 2010.

## II. DISCUSSION

TALCB's rule at 22 TAC § 153.22 states:

- (a) A certified or licensed appraiser, appraiser trainee, non-resident temporary practice registrant, or any applicant is subject to all provisions of the Act and board rules and shall, within 20 days of notice to said individual's address of record, unless granted a written extension by the board, answer all inquiries concerning matters under the jurisdiction of the board, and shall fully comply with final decisions and orders of the board.
- (b) Failure to comply with this section constitutes a separate violation of §153.20(a)(2) of this title (relating to Guidelines for Revocation, Suspension or Denial of Licensure or Certification).

TALCB's rule at 22 TAC § 153.20(a)(2) states:

- (a) The board may suspend or revoke a license, certification, authorization or registration issued under provisions of this Act or deny issuing a license, certification, authorization or registration to an applicant at any time when it has been determined that the person applying for or holding the license, certification, authorization, or registration:

- (2) has disregarded or violated a provision of the Act or of the Rules of the Texas Appraiser Licensing and Certification Board; . . . .

The factual allegations from the notice of hearing are set out in the Findings of Fact, below. The ALJ concludes those allegations should be deemed admitted, pursuant to SOAH's default rule, 1 TAC § 155.501. Based on those admitted allegations, the ALJ concludes Respondent violated 22 TAC § 153.22 and, therefore, § 153.20(a)(2).

In support of its request to revoke Respondent's license for those violations, Staff presented its Penalty Matrix, found at 22 TAC § 153.24(9), and a past Proposal for Decision and TALCB Final Order<sup>1</sup> in which a respondent's license was revoked for a violation of those rules. The ALJ concludes Respondent's license should be revoked.

### III. FINDINGS OF FACT

1. Respondent, Barbara Lynn Farmer, is a state licensed real estate appraiser who currently holds license number TX 1337337-L and held that license during all times material to the conduct alleged by the Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB).
2. Respondent's address, as provided to TALCB, is 18711 S. Colony Shore, Cypress, Texas 77433.
3. After receiving a consumer complaint against Respondent, Staff notified Respondent of the complaint at her address of record with TALCB and provided Respondent with the opportunity to respond to the allegations and requested that Respondent provide certain documentation to Staff.
4. Despite an initial notice (sent on July 10, 2010) and a follow-up reminder notice requesting the documentation (sent on August 11, 2010), the requested material was never received from Respondent.
5. Respondent has failed to provide the requested documentation.

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<sup>1</sup> SOAH Docket No. 329-09-2881.ALC, *Texas Appraiser Licensing and Certification Board v. Nathan Christopher Manweiler* (ALJ Borkland) (PFD issued May 6, 2009; TALCB Order issued August 21, 2009).

6. On September 24, 2010, Staff sent notice of the hearing in this matter to Respondent's address of record with TALCB.
7. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
8. The notice included a disclosure, in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice could be granted by default, if Respondent failed to appear at the hearing.
9. The notice included an Original Statement of Charges, which contained the following factual allegations:

After receiving a consumer complaint against Respondent, Petitioner notified Respondent of the complaint at her address of record with TALCB and provided Respondent with the opportunity to respond to the allegations and requested that Respondent provide certain documentation to Petitioner.

Despite an initial notice (sent on July 10<sup>th</sup>, 2010) and a follow-up reminder notice requesting the documentation (sent on August 11<sup>th</sup>, 2010), the requested material was never received from Respondent. As of the filing of this Statement of Charges, despite written communication advising Respondent of her obligations under the Act and TALCB rules, Respondent has failed to provide the requested documentation.

10. The envelope containing the notice of hearing was returned to TALCB unclaimed.
11. The hearing was convened as scheduled before Administrative Law Judge (ALJ) Henry D. Card on November 3, 2010, at the State Office of Administrative Hearings' (SOAH's) offices in Austin, Texas. Staff appeared at the hearing. Respondent did not. The hearing was adjourned and the record closed the same day, November 3, 2010.

#### IV. CONCLUSIONS OF LAW

1. TALCB has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 1103.451-1103.552.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and

conclusions of law, pursuant to TEX. OCC. CODE ANN. §§ 1103.508 and 1103.518 and TEX. GOV'T CODE ANN. ch. 2003.

3. Pursuant to 22 TEX. ADMIN. CODE (TAC) § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice to Respondent's most recent address as shown by the records of TALCB.
4. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052, 22 TAC § 157.9, and SOAH's default rule, 1 TAC § 155.501.
5. The factual allegations set out in the notice of hearing are deemed admitted, pursuant to 1 TAC § 155.501.
6. Respondent violated 22 TAC § 153.22 and, therefore, § 153.20(a)(2).
7. Respondent's license should be revoked pursuant to 22 TAC §§ 153.20(a)(2) and 153.24(9).

**SIGNED December 2, 2010.**

  
HENRY D. CARD  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS